

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

08-CR-6141L

v.

JIMMIE TOBIE,

Defendant.

This Court referred all pretrial matters and motions in this criminal case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). The defendant, Jimmie Tobie (“Tobie”) did file a motion to suppress evidence on the grounds that the search warrant issued for the premises at 191 Lewis Street, Rochester, New York was defective.

Magistrate Judge Payson issued a Report and Recommendation (Dkt. #16) recommending that the motion to suppress be denied. Magistrate Judge Payson determined that contrary to defendant’s assertion, the evidence submitted to the issuing judge in support of the warrant application was not stale and, therefore, there was no basis to suppress items seized as a result of the execution of that warrant.

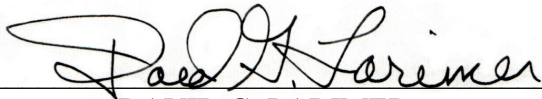
I have carefully reviewed Magistrate Judge Payson's Report and Recommendation, and the papers filed relative to the motion. In addition, no objections have been filed to the Magistrate Judge's Report and Recommendation.

I accept and adopt the Report and Recommendation of Magistrate Judge Payson and agree with her conclusion that there is no basis to suppress the evidence obtained.

CONCLUSION

Defendant's motion to suppress evidence (Dkt. #12) is in all respects denied.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 12, 2009.